

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

<b>THOMAS JOHN MAJEED,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>1:11CV358</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
<b>et al,</b>	)	
	)	
<b>Defendant(s).</b>	)	

**ORDER AND RECOMMENDATION**  
**OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff, a federal prisoner, has submitted a paper writing styled as a civil action based on a violation of Plaintiff's constitutional rights by federal officials, together with an application to proceed *in forma pauperis*. Such an action would have to be brought under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and Plaintiff does include a reference to that case in his supporting memorandum. Therefore, the Court will treat the filing as a *Bivens* action.<sup>1</sup> The form of the complaint is such that serious flaws make it impossible to further process this complaint. The problems are:

1. The complaint is not on forms prescribed for use by this Court, nor is the information requested by such forms and necessary to process the complaint

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<sup>1</sup> However, it should also be noted that Plaintiff seeks his release from prison, which would indicate an attack on his conviction and sentence. Any such attack would have to be brought separately under 28 U.S.C. § 2255.

pursuant to 28 U.S.C. § 1915A contained in Plaintiff's submission. *See* LR 7.1(f).

2. Plaintiff has failed to provide a sufficient number of copies. Plaintiff must submit the original, one copy for the Court, and one copy for each defendant named.
3. Pursuant to the Prison Litigation Reform Act, Plaintiff may no longer proceed *in forma pauperis* in this Court unless he is under imminent danger of serious physical injury. The Act provides that:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). In this Court alone, Plaintiff has had over three cases dismissed on the grounds that they were frivolous: 1:00CV1198, 1:00CV1199, and 1:05CV656. Therefore, Plaintiff may not proceed *in forma pauperis* without a showing of imminent danger of serious physical injury. He has not even attempted to make this showing.

Consequently, this particular complaint should be dismissed, but without prejudice to Plaintiff resubmitting his complaint with the \$350.00 filing fee and otherwise correcting the defects noted above. To further aid Plaintiff, the Clerk is instructed to send Plaintiff new § 1983 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Fed. R. Civ. P. 8 (i.e., Sections (a) & (d)).

*In forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation.

**IT IS THEREFORE ORDERED** that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation. The Clerk is instructed to send Plaintiff § 1983 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Fed. R. Civ. P. 8 (i.e., Sections (a) & (d)).

**IT IS RECOMMENDED** that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff resubmitting his complaint with the \$350.00 filing fee and otherwise correcting the defects noted above.

/s/ P. Trevor Sharp  
United States Magistrate Judge

Date: June 9, 2011